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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/096,999	06/13/98	KARFEN	D 950901

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MM92/1024

EXAMINER

VU.D

ART UNIT

PAPER NUMBER

2821

DATE MAILED: 10/24/00

Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES DEPARTMENT OF COMMERCE
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 15

Application Number: 09/096999
Filing Date: 6/13/2000
Appellant(s): Daniel Karpen

Preparer: Ex. David Vu
Conferees: Ex. Don Wong
and Haissa Philogene

Alfred Walker
For Appellant

MAILED
OCT 24 2000
GROUP 2800

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed 8/18/2000.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

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(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The grouping of the claims are correct.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal: Blocher et al. (Pat. No. 5,446,617) and the publication CO-NETIC NETIC Magnetic Shielding Alloys for Magnetic Shield Rooms and Modular Enclosures.

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(10) *New Prior Art*

No new prior art has been applied in this examiner's answer.

(11) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blocher et al. in view of the publication CO-NETIC & NETIC Magnetic Shielding Alloys.

Blocher et al. essentially discloses the claimed invention including a rectangular ballast case 10 made of an aluminum inherently for electromagnetic shielding; electrical and electronic circuitry, hardware attaching the electrical and electronic circuitry 26 to the ballast case; and external connecting wiring inherently in the ballast (figures 1-4; columns 1,4). Blocher et al. does not specify the shielding material as soft ferromagnetic alloy in the form of metal foil. However selection such particular material would have

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been considered well within the level of ordinary skill in the art as evidence in the publication CO-NETIC & NETIC Magnetic Shielding Alloys. Accordingly, an obvious modification would have provided the Blocher et al reference with these well known material in the art. Thus, it would have been obvious to one having ordinary skill in the art at the time of appellant's claimed invention was made to have provided the Blocher et al. reference with the soft ferromagnetic material as it would have provided the lamp ballast with means for electromagnetic shielding since ferromagnetic material possesses high magnetic permeability characteristics as was well known in the art. The type of ballast, e.g., coil or electronic, would have been considered obvious as it would have provided the lamp with means for powering the lamp. The range of affecting electromagnetic frequency, e.g., 60 Hz to 100 kHz would have been considered obvious since a high frequency range would have reduced the lamp power consumption. Utilizing the shielding as metal foil and attached with adhesive to the ballast case would have been well within the level of ordinary skill in the art as it would have reduced electromagnetic energy from leaking to the environment.

(12) Response to argument

First of all, the declaration filed under 37 CFR 1.131 & 1.132 filed 8/26/99 would not overcome the rejection of claims 1-16 because the submitted evidence is insufficient to establish diligence from a date prior to the date of reduction to practice of the magnetically shielded ballast reference to either a constructive reduction to practice or an

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actual reduction to practice. For example, there were no test data, reproductions of notebook entries, sketches, original exhibits of drawings or records, or photocopies thereof, accompany and form part of the affidavit or declaration. Thus the declaration filed under 37 CFR 1.131 & 1.132 can not be used to predate the Blocher's reference.

Secondly, appellant's conclusion about the "discovery" of the problems caused by electromagnetic field emitted from the ballast circuitry is unsupported since there is no consensus in the scientific community about the cause and effect of electromagnetic field emitted from the ballast circuitry to human beings. Appellant has only provided a small sampling data and drawn his own conclusion based on these insufficient data.

Futhermore, even the literatures supplied by appellant and supposedly supporting appellant's view about the effects of electromagnetic fields provide contradicting findings. For example, the publication by Louise Young titled "DANGER:HIGH VOLTAGE", page 19, column 3, shows the experts studying this electromagnetic phenomena have concluded that "concern about the deleterious consequences of power lines' electric and magnetic fields lacks scientific support". Column 2 of the same publication also states that no significant changes of any kind were found in the general physical examinations of the men subjected to electromagnetic field exposure.

Appellant argued that the Blocher reference is directed to "electrical grounding" of a fluorescent ballast whereas the appellant herein "magnetically" shields the fluorescent ballast case. However, the Blocher reference clearly discloses the shielding of the ballast

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in order to decrease electromagnetic transmission therefrom, see, column 1, lines 13-15, lines 30-34. Housing 10 in the Blocher reference is also made of aluminum which is an excellent material for electromagnetic shielding.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,




Vu/D.V.
October 17, 2000

Application Serial Number 09/096989

<u>Mail Personnel</u>	DATE	INITIALS
Receive case and PALM in	<u>5-16-01</u>	<u>[Signature]</u>
<u>Docket Personnel I</u>		
OB/Heard Classification		
Outline case	<u>5/31/01</u>	<u>P.B.</u>
<u>Reviewers</u>	<u>3-5-02</u>	<u>[Signature]</u>
Review/assign panel		
Prepare order/remand		
<u>Docket Personnel I</u>		
Enter data in ACTS/PALM		
Prep case (if panel assigned)	<u>3-7-02</u>	<u>[Signature]</u>
<u>Docket Personnel I</u>		
Mail remand/order		
<u>Administrators</u>		
Assign Hearing Date		
<u>Docket Personnel II</u>		
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BOARD OF PATENT APPEALS
AND INTERFERENCES

DESIGNATION OF PANEL

Pursuant to (1) the Commissioner's authority to designate the members of the Board of Patent Appeals and Interferences to hear cases before the Board (35 U.S.C. 7(b)), and (2) Commissioner Lehman's memorandum dated May 1, 1994 (delegating to the Chief Administrative Patent Judge the responsibility of designating members to hear cases before the Board), it is ORDERED that the panel of the Board of Patent Appeals and Interferences designated to hear this case shall consist of the following members of the Board:

☒ On Brief ☐ Heard ☐ Redesignation ☐ Expanded Panel, see addendum.

1. Judge Blankenship

2. Judge [Signature] JERRY SMITH OR 4/11-15-03

3. Judge Dixon

[Signature]
BRUCE H. STONER, JR.
Chief Administrative Patent Judge

Date of Hearing: _____

Appx to [Signature]
Clm. 1, delete lines 17-19.
And B was not entered.
Clm. 8, lines 16-18, delete "and..."
100 Kilobertz